

Van H. Wanggaard

Wisconsin State Senator

Thank you Mr. Chairman and committee members for this hearing on Senate Bill 42, relating to the mandatory reporting of child abuse or neglect by school district employees.

The origin of this bill comes from an incident that occurred to a constituent of mine in Caledonia. A 9 year old girl was sexually assaulted at an elementary school. While the educational assistant did report the abuse in this case to a teacher, the teacher failed to report the assault. As a result, the child was assaulted twice more. The mother of the child is here today to share her testimony, which you will hear in a few moments.

Following the introduction of this bill, I became aware of another incident of abuse in Appleton. In this case, a teacher abused several children. An investigation found that staff members knew of the abuse but didn't feel comfortable reporting.

That gets to the heart of the bill – promoting a safe environment through all employees engaged in that process. The bill expands the mandatory reporters of abuse to include all school district employees – whether they are assistants, aids, janitors – anyone employed by a school district. All district employees would receive mandatory training in abuse recognition within the first six months of hiring, and refresher training every five years thereafter. In addition, to make district employees feel more comfortable reporting abuse, we have provided the equivalent of whistleblower protection to those making good-faith reports.

After consultation with the Department of Public Instruction, we have drafted an amendment to the bill. After the bill was drafted, we learned that DPI already has these training materials available to districts, so no additional training need be developed by county departments or child welfare agencies. In addition, DPI did not believe that rule-making authority was required. The amendment addresses both of these issues, and it should also minimize any fiscal impact of the bill.

The bill is short for a reason. This isn't some sweeping change we are making to the mandatory reporter law. This bill simply creates more reporters and provides them with protection for good-faith reports.

Hindsight is often 20-20, and it certainly is in this case. The change being proposed today is common sense. While it is too late to help the children I have mentioned here today, it is not too late to help potential future victims of abuse.

Thank you, and I'm happy to answer any questions you may have.

Serving Racine County - Senate District 21

May 3, 2011

Senate Committee on Judiciary, Utilities, Commerce and Government Operations

**Department of Public Instruction Testimony
on 2011 Senate Bill 42**

Thank you to Chairperson Zipperer and members of the committee for the opportunity to testify before you today. My name is Nic Dibble and I am the Consultant for School Social Work Services for the Department of Public Instruction (DPI). On behalf of State Superintendent Tony Evers I am here to testify in support of Senate Bill 42 (SB 42) as it will lead to better identification of child abuse and neglect by school staff by making training mandatory for all employees.

The department thanks Senator Wanggaard for offering this bill and for recognizing the work the department already does in his amendment to the bill. The department currently offers training to school districts on its web site for free, which districts can use to in-service staff. The webcast (available at <http://dpimedia.wi.gov/main/Viewer/?peid=4a3e62a9374e488b92bf316c810642c8>) is designed to ensure that educators understand their responsibilities under the law to report suspected abuse or neglect of children. Topics covered include the definitions of the different kinds of child maltreatment, warning signs, how to make a report of suspected child maltreatment, guidelines for talking to students, cooperating with a Child Protective Services investigation, possible outcomes of a report, and available resources.

Additionally, the department has published *The School's Role in Preventing Child Abuse and Neglect* (available at <http://www.dpi.wi.gov/sspw/doc/sswchildabuse.doc>) which also covers this material. The Department of Health and Family Services (DHFS), now the Department of Children and Families, was consulted in the development of this document. Its contents are consistent with their direction to counties. DHFS and DPI distributed the publication to counties and school districts, respectively.

The department believes Senator Wanggaard's amendment to SB 42 will save money by utilizing training that has already been developed and made available for free. Furthermore, the amendment clarifies for school districts where they can get training by eliminating any questions for districts that are part of more than one county. It builds on the established relationships the DPI has with districts.

Thank you and I would be happy to answer any questions you may have.

TESTIMONY IN SUPPORT OF SB 42

by

Jeffrey Spitzer-Resnick
Managing Attorney

As many of you know, Disability Rights Wisconsin (DRW) is Wisconsin's state designated and federally mandated protection and advocacy agency for people with disabilities. Congress created agencies like ours to help protect people with disabilities from abuse. However, protecting children with disabilities in school from abuse by school staff has often proved challenging due to a gap in our child abuse reporting law which SB 42 seeks to fill.

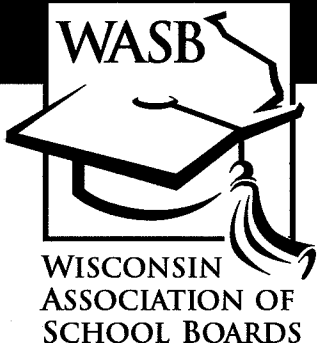
On numerous occasions, in my role as DRW, I have represented victims of egregious abuse by school teachers which went on for years without being reported as required under our mandatory reporting law. There are two reasons why these cases do not get reported, both of which are addressed by SB 42.

First, many of the victims of abuse perpetrated by teachers are non-verbal children with disabilities. So, they cannot report the abuse themselves. However, in such cases, there is usually an educational assistant in the classroom who is often witness to the abuse. Under current law, such assistants are not mandated child abuse reporters. SB 42 would make them and all school staff mandated child abuse reporters and close that loophole in current law.

In addition, because educational assistants are often among the lowest level employees with little status and job protection, they rightly fear that reporting their teacher who is their boss as a perpetrator of child abuse will risk their employment. Indeed, this fear is real. I have worked on a number of cases where educational assistants have been terminated for making such reports. SB 42 would make such terminations illegal and thereby give educational assistants more courage that they can report such abuse early without fear of termination.

Some of you may be familiar with the recently exposed case of the Appleton teacher who has been charged with 10 felony counts for abusing her non-verbal students with disabilities for at least the past 5 years. Ultimately, it was her educational assistant that came forward, but she made it clear to investigators that she did not do so earlier because she was afraid she would be terminated. We can only hope that if SB 42 passes, it will prevent other children from suffering in the manner that the victims of this teacher in Appleton did for so many years.

In sum, DRW wholeheartedly supports SB 42 and encourages this committee to vote in favor of its passage and send it on to the full Senate as soon as possible.



122 W. WASHINGTON AVENUE, MADISON, WI 53703
PHONE: 608-257-2622 • FAX: 608-257-8386

JOHN H. ASHLEY, EXECUTIVE DIRECTOR

To: Members of the Senate Judiciary, Utilities, Commerce
and Government Operations Committee

From: Joe Quick, WASB Government Relations Specialist

RE: SB 42, mandatory reporting of child abuse by all school employees

Date: May 3, 2011

The WASB supports the intent of SB 42 to ensure that school employees report suspected incidents of child abuse. However, we are concerned that in the attempt to improve the protection of students and prosecute school-employee perpetrators, the proposal's application is murky. Current law requires professional employees in many occupations to report child abuse "seen in the course of their professional duties." While SB 42 extends the reporting requirement to *all* school employees, what is the threshold that triggers reporting? For example, if a custodian emptying trash sees a student with facial scrapes and a black eye, must the custodian make a report? Is the custodian subject to a fine if he or she does not make a report?

The bill's vague language also raises concerns about internal school communication. It is conceivable that an employee could make a report to law enforcement, and since the reporting information is confidential, the school principal and administration might not know anything of an allegation against a school employee. The bill could potentially discourage workplace communication and prevent school investigations from occurring. We don't believe this is the author's intent.

It is not uncommon for geographically sprawling school districts to be parts of multiple local government jurisdictions, each municipality with its own law enforcement personnel. Would a school employee be required to notify *all* law enforcement agencies the school district is part of? Who would make that determination, the individual employee? Would the employee be subject to a fine if the individual did not report to the correct law enforcement unit?

Under the bill, the employee who made the report in the example above would have no way of knowing if another employee, such as a teacher or counselor, might have also reported. This could lead to multiple investigations of the same incident.

Many school districts contract with private businesses for the kitchen and bussing operations. Under this bill, a bus driver who is a "school employee" would be required to report, but not the driver in a district that contracts out for services.

Finally, the bill is an unfunded mandate. It requires *every* school employee to be trained and may require hiring substitutes at the district's expense. Will the training required in the bill allow a computer technician who works for the district to make a qualified judgment on suspected child abuse, similar to that of a trained and licensed social worker? Who would the computer technician consult with to make a determination if reporting is necessary?

While the intent of the bill is laudable, the practical application of the bill's provisions raises many questions, could encourage poor internal district communication with school administrators, fails to address reporting requirements in school districts with multiple local governmental units, and distinguishes between a bus driver employed by a school district and one working in the private sector, but driving school children daily.